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SGX-Listed Issuers Must Review, Assess and Disclose Exposure or Nexus to Sanctions-Related Risks

Executive Summary

On 7 March 2022, the Singapore Exchange Regulation ("**SGX RegCo**") issued a set of guidance notes on what an issuer should do if the issuer, or any person or entity closely associated with the issuer, is exposed to sanctions-related risks. An issuer refers to a company or other legal person or undertaking (including a real estate investment trust ("**REIT**")) whose securities have been admitted to listing on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") or are the subject of an application for listing (collectively, "**Listed Issuer**"). A Listed Issuer includes the issuer's subsidiaries and associated companies.

This follows from an [announcement](#) by the Ministry of Foreign Affairs ("**MFA**") on 5 March 2022 which states that Singapore is imposing sanctions and restrictions against Russia in response to its invasion of Ukraine ("**Russian Sanctions**"). We set out below, broadly, the key features of the Russian Sanctions. For full details, please click [here](#) for our Client Update on "*Singapore Announces Implementation of Sanctions Against Russia*" dated 7 March 2022.

- Bans on the export, transit, and transshipment to Russia of strategic military and high technology goods which can be used for both commercial and military purposes ("**Export Ban**");
- Prohibitions against financial institutions¹ in Singapore ("**FIs**") from transacting with or establishing business relationships with four designated Russian banks;² and
- Prohibitions against FIs from entering into transactions or arrangements or providing financial services that facilitate fund-raising by the Russian government, the Central Bank of the Russian Federation or a legal person or legal arrangement that is owned or controlled by them or acts on their direction or behalf.

This Update provides a summary of the SGX RegCo guidance dated 7 March 2022 titled "[Regulator's Column: What SGX expects of issuers in respect of sanctions-related risks, subject or activity](#)" and distills the steps that a Listed Issuer needs to take to comply with the SGX RegCo guidance with reference to the Russian Sanctions. Listed Issuers are reminded that, in general, the sanctions-related risks that a

¹ Financial institutions include banks, insurers, capital markets intermediaries, finance companies, securities exchanges, and payment service providers.

² VTB Bank Public Joint Stock Company, The Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank, Promsvyazbank Public Joint Stock Company and Bank Rossiya.



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Listed Issuer should guard against are not limited to the Russian Sanctions and should include any sanctions imposed by Singapore to give effect to the decisions of the United Nations Security Council (for example, there are existing sanctions against dealings with the Democratic People's Republic of Korea, Iran and Somalia)³ or other international bodies (where applicable).

Identifying Exposure or Nexus to Sanctions-Related Risks & Considering Appropriate Actions

The SGX-ST Mainboard Rules and Catalist Rules (collectively, "**Listing Rules**") require an issuer to have adequate and effective systems of internal controls and risk management systems to address and mitigate its financial, operational, compliance and information technology risks. SGX RegCo highlights that such risks include sanctions-related risks. Some examples on when Listed Issuers may be exposed to or have nexus to sanction-related risks and the actions which SGX RegCo expects Listed Issuers to take if there is such an exposure or nexus are set out below.

	Examples of Sanction-Related Risks	Expected Actions by Listed Issuers
1.	Listed Issuer engages in an activity that is prohibited under any sanction (" Sanctioned Activity ") (e.g. business activities which involve the export, transit and transshipment of goods covered by the Export Ban).	<ul style="list-style-type: none"> Suspend trading in the Listed Issuer's listed securities and immediately announce all relevant information (including an assessment on the impact to the Issuer). Issuer remains suspended until it has demonstrated to SGX that it has ceased the Sanctioned Activity. SGX will not grant its approval for the Listed Issuer to raise funds.
2.	Listed Issuer is an entity or individual that is subject to sanctions-related laws or regulations (" Sanctioned Subject ") (e.g. the four designated Russian banks, the Russian government, the Central Bank of the Russian Federation or a legal person or legal arrangement that is owned or controlled by them or acts on their direction or behalf). ⁴	<ul style="list-style-type: none"> Suspend trading in the Listed Issuer's listed securities and immediately announce all relevant information. Issuer remains suspended until it has demonstrated to SGX that it is no longer a Sanctioned Subject. SGX will not grant its approval for the Listed Issuer to raise funds.

³ Please refer to the website of the Monetary Authority of Singapore ("**MAS**") at [Home > Regulation > Anti-Money Laundering > Targeted Financial Sanctions](#) for more information on the targeted financial sanctions applicable to FIs, non-FIs and natural persons in Singapore.

⁴ MAS has issued the MAS Notices SNR-N01 Financial Measures in Relation to Russia and SNR-N02 Financial Measures in Relation to Russia – Non-prohibited Payments and Transactions which set out the details of the transactions and dealings that financial institutions are prohibited from entering into or engaging in pursuant to the Russian Sanctions. Financial institutions that fail to comply with the Notices are guilty of an offence. The MAS Notices took effect on 14 March 2022.

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	Examples of Sanction-Related Risks	Expected Actions by Listed Issuers
3.	<ul style="list-style-type: none"> Listed Issuer's substantial shareholder, director or executive officer is a Sanctioned Subject.* Listed Issuer or any of its substantial shareholder, director or executive officer is controlled by any person, entity or government that is a Sanctioned Subject.* <p>*Currently, MFA has yet to name any specific individual as a Sanctioned Subject pursuant to the Russian Sanctions.</p>	<ul style="list-style-type: none"> Immediately announce all relevant information known to the Listed Issuer. SGX RegCo would not consider a Sanctioned Subject to be suitable for continued appointment as an executive officer or director of a Listed Issuer.
4.	Listed Issuer is applying to raise funds to finance any Sanctioned Activity or if the proceeds raised are likely to be used to benefit any Sanctioned Subject.	<ul style="list-style-type: none"> SGX will not grant its approval for the Listed Issuer to raise funds.
5.	Listed Issuer has existing business in a country that is subject to sanctions-related laws or regulations (" Sanctioned Country ") (e.g. Russia).	<ul style="list-style-type: none"> Seek legal advice on whether Listed Issuer's dealings with the Sanctioned Subjects, business activities or operations in the Sanctioned Country, or relationships with any entities or individuals in the Sanctioned Country, breaches any Singapore law and regulation or does not comply with any directions set by the relevant regulatory authority. Where the Listed Issuer assesses, or is aware, that there has been a material change in its sanction-related risks, the Issuer should immediately announce the inherent risk exposure on SGXNET (e.g. Russia has announced that dealings with individuals and companies from Singapore would now have to be approved by a government commission). The SGXNET announcement should cover: <ol style="list-style-type: none"> a statement that legal advice has been obtained in assessing the sanctions-related risks (if obtained); an assessment on the impact of the sanctions-related risks to the Listed Issuer, such as: (1) the financial impact; and (2) the operational impact (i.e. the impact on its ability to carry out its business operations), including any restrictions imposed by
6.	Listed Issuer wishes to expand its business into a Sanctioned Country.	
7.	Listed Issuer's principal operations, business activities, customers or suppliers are in a Sanctioned Country.	
8.	<p>Listed Issuer's substantial shareholder*, director or executive officer is located or incorporated in a Sanctioned Country (e.g. its substantial shareholder is a Russian company).</p> <p>*A substantial shareholder is a shareholder who has interests in voting shares (excluding treasury shares) in the Listed Issuer that carry 5% or more total votes.</p>	
9.	Listed Issuer has business dealings, on an ongoing basis, with entities or	

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	Examples of Sanction-Related Risks	Expected Actions by Listed Issuers
	individuals that are Sanctioned Subjects.	<p>stakeholders (e.g. conditions imposed by the bank on financing facilities);</p> <p>c. confirmation by the board of directors of the Listed Issuer ("Board") that the Issuer has implemented adequate and effective control measures to protect the Issuer's interests in relation to any sanctions-related risks;</p> <p>d. confirmation by the Audit Committee ("AC") that the control measures implemented are adequate and effective in respect of the Listed Issuer's exposure to any sanctions-related risks;</p> <p>e. if the control measures have yet to be implemented due to the Listed Issuer's recent exposure or nexus (or awareness) to sanctions-related risks or material change to its risk of being subject to sanctions, disclosure of the Issuer's implementation plan. The Issuer must follow up with the requisite confirmations after the plan has been implemented;</p> <p>f. statement that the Board and AC will be responsible for (1) monitoring the Issuer's risk of becoming subject to, or violating, any sanctions-related laws and regulations; and (2) ensuring timely and accurate disclosures to SGX and other relevant authorities.</p>
10.	Listed Issuer is exposed, or has a nexus, to any sanctions-related risks and intends to raise funds.	<ul style="list-style-type: none"> Undertake an independent review or obtain external auditors' confirmation that fundraising proceeds are not used to benefit any Sanctioned Subject or finance any Sanctioned Activity, as may be required by SGX.

Following a Listed Issuer's disclosure of the relevant sanctions-related risks, SGX may query or require the Issuer to take action to address the risks. The Listed Issuer is expected to suspend trading in its securities if the impact of the risks is material or affects the Issuer's ability to operate as a going concern, or where the sanctions-related risks cannot be remediated within a reasonable time.

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Responsibility of the Board and AC

SGX RegCo expects the Board and Audit Committee of a Listed Issuer to be responsible for: (1) monitoring the Issuer's risk of becoming subject to, or violating, any sanctions-related laws and regulations; and (2) ensuring timely and accurate disclosures to SGX and other relevant authorities. A statement on the responsibility of the Board and AC in this regard must be included in the Listed Issuer's annual reports and its announcement on sanctions-related risks.

The AC is required to include in its terms of reference an assessment on whether there is a need to obtain independent legal advice or appoint a compliance adviser in relation to the sanctions-related risks applicable to the Issuer and continuous monitoring of the validity of the information provided to shareholders and SGX.

Other Continuing Listing Obligations

The Listed Issuer must assess on an annual basis whether it has exposure or nexus to sanctions-related risks. If there is such an exposure or nexus, the Listed Issuer must provide in its annual report:

- The Board's confirmation that there has been no material change in its risk of being subject to any sanctions-related laws and regulations. If there is any material change, this would be immediately announced on SGXNET, together with the prescribed information discussed above; and
- The Board's comment on the adequacy and effectiveness of the Issuer's internal controls and risk management systems must additionally include consideration with respect to any sanctions-related risk. The AC must provide a statement on whether it concurs with the Board's comment.

The Listed Issuer must make an immediate announcement of the following circumstances where:

- The Issuer is no longer exposed to, or no longer has a nexus, to any sanctions-related risks;
- The Issuer or its substantial shareholder, director or executive officer ceases to be a Sanctioned Subject; or
- The Issuer is no longer engaging in a Sanctioned Activity,

together with an assessment on the impact of the ceasing of the above sanctions-related risks ("**Cessation**") to the Issuer, such as the financial impact and the operational impact.

SGX may require that the Listed Issuer obtain and announce legal advice and confirmation from any other relevant parties in relation to whether, following the Cessation, there will be any legal and financial penalties and liabilities (including contingent liabilities) imposed on the Issuer. Any material updates and changes to the legal advice must be disclosed on a timely basis. The Listed Issuer may be required to confirm, on an annual basis, the continued validity of any such legal advice and confirmation, in its subsequent annual reports.

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Concluding Remarks

Sanctions-related risks are not new but have taken centre stage recently due to the breadth of the Russian Sanctions. In view of the SGX RegCo Guidance, Listed Issuers must immediately conduct a review of, among other things, their business activities and dealings, their business partners and counterparts as well as the legal and beneficial owners of their various stakeholders to identify any exposure or nexus to the risks arising from the Russian Sanctions and assess the impact of such risks to them.

Should you require any legal advice on addressing and managing any potential legal liabilities arising from the rapidly evolving legal and regulatory changes relating to the recent sanctions imposed by the Singapore government and other jurisdictions against the Russian government and its banks and related entities, please feel free to contact our team members below who would be happy to assist.

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